

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES E. VICK,

Plaintiff,

No. 2:13-cv-0327 KJN P

vs.

DR. COLLIN MBANUGO,

Defendant.

ORDER

On January 15, 2013, plaintiff, a state prisoner proceeding pro se, filed this civil rights action in the United States District Court for the Northern District. By order filed February 19, 2013, the case was transferred to this court, stating that:

[t]he acts complained of occurred while [plaintiff] was incarcerated at California State Prison - Solano, which is located in the Eastern District of California, and it appears that Defendant resides in that district.

(Dkt. No. 5.)

The federal venue statute provides that a civil action “may be brought in (1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of

1 the action is situated, or (3) if there is no district in which an action may otherwise be brought as
 2 provided in this action, any judicial district in which any defendant is subject to the court's
 3 personal jurisdiction with respect to such action." 28 U.S.C. § 1391(b).

4 In this case, the defendant does not reside in this district. Review of the instant
 5 complaint reveals that defendant Dr. Collin Mbanugo, M.D., performed the surgery at issue here
 6 in San Pablo, California, which is located in the Northern District. Moreover, a search using
 7 People Finder in Westlaw confirms that defendant resides in Oakland, California, which is also
 8 in the Northern District. Id. Also, the Medical Board of California lists defendant's address of
 9 record for his medical license as Oakland, California. (The Medical Board of California,
 10 <http://www.mbc.ca.gov>, visited March 7, 2013.) Although plaintiff was incarcerated in the
 11 Eastern District at the time of the surgery, plaintiff names no other individuals as defendants, and
 12 does not raise any claim about subsequent medical care performed in facilities located in the
 13 Eastern District. (Dkt. No. 1, *passim*.)

14 The instant claim arose in San Pablo, in Contra Costa County, which is in the
 15 Northern District of California, and defendant does not reside in this district. Therefore,
 16 plaintiff's complaint is returned to the United States District Court for the Northern District of
 17 California. In the interest of justice, a federal court may transfer a complaint filed in the wrong
 18 district to the correct district. See 28 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d 918, 932
 19 (D.C. Cir. 1974).

20 Accordingly, IT IS HEREBY ORDERED that this matter is transferred back to
 21 the United States District Court for the Northern District of California. The case number in the
 22 Northern District was C 13-0209 YGR (PR).

23 DATED: March 7, 2013

24 
 25 KENDALL J. NEWMAN
 UNITED STATES MAGISTRATE JUDGE